

SWIDLER BERLIN^{LLP}

Ronald W. Del Sesto, Jr.
Phone 202.945.6923
Fax 202.424.7643
rwdelsesto@swidlaw.com

The Washington Harbour
3000 K Street, N.W., Suite 300
Washington, D.C. 20007-5116
Phone 202.424.7500
Fax 202.424.7647
www.swidlaw.com

November 3, 2005

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

Re: *Ex Parte* Communication, WC Docket Nos. 05-196 and 04-36

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Federal Communications Commission's ("Commission") Rules, 47 C.R.F. § 1.1206, this letter serves to provide notice in the above-captioned proceedings of an *ex parte* meeting on November 2, 2005 among the undersigned, Lightyear Network Solutions, LLC ("Lightyear") representatives John Grieve (General Counsel), Steve Ray (Director Carrier Management) and Linda Hunt (Director of Legal and Regulatory Affairs), and Commission staff Joseph Casey (Chief of the Spectrum Enforcement Division, Enforcement Bureau), Kathy Berthot (Deputy Chief of the Spectrum Enforcement Division, Enforcement Bureau), Christi Shewman (Acting Assistant Division Chief of the Competition Policy Division, Wireline Competition Bureau), Elizabeth Valinoti (Legal Advisor, Enforcement Bureau), and Sue McNeil (Legal Advisor, Enforcement Bureau).

During the meeting, Lightyear explained that the Company has been in business for approximately 12 years and takes compliance with the Commission's rules very seriously. In terms of the Commission's recent *VoIP E911 Order*, Lightyear quickly determined that the Company could not develop and implement an E911 solution without using third party solutions. Lightyear explained that the Company had joined others in filing an emergency motion for partial stay of the Commission's *VoIP E911 Order* with the United States Court of Appeals for the District of Columbia after the Commission failed to act on the stay request filed on October 24, 2005. Lightyear explained that the filing of the stay was its least favored option, but the Company determined that it had no choice. With the November 28 deadline approximately three weeks away, it has become clear to Lightyear that the Company will not have a VoIP E911 solution in place for approximately 88% of its VoIP customers. Lightyear cannot be alone in this predicament, as the third party solution provider used by the Company is also used by many other VoIP providers. Due to the inability of the VoIP industry to comply with the November 28, 2005 deadline, Lightyear concluded that the Company had no choice but to request a stay.

Marlene H. Dortch, Secretary

November 3, 2005

Page 2

Lightyear asked Commission staff whether the Commission would clarify certain aspects of the *VoIP E911 Order*. Specifically, the Petition for Reconsideration jointly filed by the Voice on Net Coalition and the National Emergency Number Association asks that the Commission clarify that 911 calls can be routed through the PSTN, rather than exclusively through dedicated lines, as an interim solution and still comply with the *Order*. Based on representations made by Lightyear's vendor, this would expand the number of markets where the third-party solution provider would be able to offer a VoIP E911 solution in conformity with the rules. Commission staff responded that it was unknown whether such a clarification would be forthcoming and that there was no information available about the possible timing of such a clarification. Lightyear further inquired as to whether the Company should be prepared to disconnect customers in markets where the Company is not able to offer a VoIP E911 service in conformity with the *VoIP E911 Order*. Commission staff indicated that the Commission was not specifically recommending whether VoIP providers should disconnect or continue to provide service where they cannot comply with the *Order* effective November 28, 2005.

Pursuant to the Commission's Rules, this letter is being filed in the above-captioned proceedings for inclusion in the public record. Should you have any questions, please do not hesitate to contact the undersigned.

Respectfully submitted,

/s/
Ronald W. Del Sesto, Jr.

Counsel for Lightyear Network Solutions, LLC

cc: Joseph Casey
Kathy Berthot
Christi Shewman
Elizabeth Valinoti
Sue McNeil